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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,504	02/11/2002	Pat Muller		5984

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EXAMINER

GRILES, BETHANY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/073,504

Applicant(s)

MULLER, PAT

Examiner

Bethany L. Griles

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-24 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8 and 25 is/are rejected.
- 7) ☒ Claim(s) 6 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because in figures 6 and 7, element 118 should be labeled 120. In figure 7, elements labeled 22 and 26a should be labeled 122 and 126a, respectively. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation "are formed rounded whwn viewed in a line" is indefinite. It is not clear what the applicant is claiming.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5, 7, 8 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farkas et al. (US 5,911,199) (hereinafter referred to as 199) in view of Davies-Ross (US 6,101,980) (hereinafter referred to as 980).

Regarding claims 1 and 25, 199 discloses a body 16 having a longitudinally extending center portion with first and second opposing free ends 20, 22 extending longitudinally from the center portion, the first and second free ends provided with openings (see fig 3), for threading the collar therethrough and along the front side 19 of the center portion (see fig 2).

199 does not disclose posts projecting from the center portion.

980 discloses posts 2 projecting rearwardly from the back side of the center portion (fig 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 980 to the invention of 199 in order to affect a greater response from the animal when opposing pressure was applied to the collar.

Regarding claim 2, 199 discloses a rigid body 16.

199 does not disclose the posts, or that they are formed from molded plastic.

980 discloses that the posts are formed of integrally molded plastic (col 3, lines 11-14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 980 to the invention of 199 in order to make the posts of a resilient and easily moldable material for ease of use and ease of manufacture.

Regarding claim 3, 199 discloses a rigid body 16.

199 does not disclose the posts, or that they are of equal length.

980 discloses that the posts are of equal length (fig 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 980 to the invention of 199 in order to apply equal pressure to the throat of the animal.

Regarding claim 4, 199 discloses a rigid body 16.

199 does not disclose the posts, or that they have rounded free ends.

980 discloses rounded free ends (fig 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 980 to the invention of 199 in order to provide the animal with a deterrent against lunging, without harming the animal.

Regarding claim 5, 199 discloses that the body is generally planar (fig 2).

Regarding claim 7 as best understood, 199 discloses that the upper and lower surfaces are formed rounded when viewed along a transverse axis (fig 2).

Regarding claim 8, 199 discloses the rigid body 16.

199 does not disclose the posts, or that they are longitudinally aligned with one another.

980 discloses that the posts are longitudinally aligned (see fig 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 980 to the invention of 199 to avoid poking the animal with the posts inadvertently if the posts were not placed in a longitudinal relation to each other.

***Allowable Subject Matter***

Claims 6 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-24 are allowed.

The following is an examiner's statement of reasons for allowance: The applicant discloses posts placed on separate planes.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Von Culin 205,515; Branner 1,688,261; Vanderhoof 2,219,569; Marschall 5,797,354; Wood GB2132463A; Duplessy FR2703214A1.

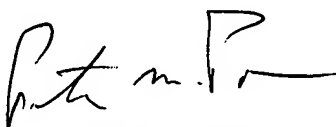
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

Bethany L. Griles  
Examiner  
Art Unit 3643

blg  
August 14, 2002

  
PETER M. POON  
SUPERVISORY PATENT EXAMINER  
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